

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

Amendment of Section 73.202(b)
FM Table of Allocations
FM Broadcast Services
(Crownpoint, New Mexico)

)
) MB Docket No. _____
) RM- _____
)

FILED/ACCEPTED

To: Office of the Secretary
Attn: Chief, Audio Division
Media Bureau

AUG 28 2012
Federal Communications Commission
Office of the Secretary

PETITION FOR RULEMAKING

Navajo Technical College ("NTC" or "College"), a Native American entity of the Navajo Nation, by its attorneys, hereby petitions the Federal Communications Commission ("FCC" or "Commission") to initiate a rulemaking proceeding to amend Section 73.202(b), 47 C.F.R. §202(b), of the Commission's Rules, the FM Table of Allotments, to add the following tribal allotment:

<u>CITY</u>	<u>CHANNEL</u>	<u>Station Class</u>
Crownpoint, New Mexico	297	A

Simultaneously with the filing of this Petition for Rulemaking, NTC has also filed a complete FCC Form 301 application seeking authorization for this proposed new allotment consistent with the Commission's Rules.

As illustrated in the Technical Statement prepared by broadcast technical consultant Greg Best Consulting, Inc., attached hereto as Exhibit 1, a Class A facility operating on channel 297 can be allocated to the community of Crownpoint, New Mexico at the reference coordinates shown below. From the proposed allocation reference site, Channel 297 meets the Commission's minimum distance separation requirements of Section 73.207, 47 C.F.R. §73.207, to all domestic licensed, proposed, or applied for facilities. Additionally, at the following reference coordinates, based on the allotted effective radiated power and antenna height above average terrain, the

community of Crownpoint, located within the Eastern Agency of the Navajo Nation, would be entirely covered by the new station's proposed 70 dBu contour.

<u>COORDINATES (NAD27)</u>	<u>CHANNEL</u>
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35-41-07.4 N, 108-08-43.2 W	297
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Crownpoint is a community for tribal allotment purposes. It is a census designated place (CDP) in McKinley County, New Mexico, with its own zip code (87313). As of 2000, the total population of Crownpoint is 2,630¹; over 90% are Native American². The Crownpoint population density is 372.3 people per square mile, which is much higher than the state average density of 11.5 people per square mile.³

Crownpoint serves as the headquarters of the Eastern Agency of the Navajo Nation and contains a number of Navajo Nation government offices as well as offices of the U.S. Bureau of Indian Affairs ("BIA"). In addition to a number of businesses, Crownpoint has a pre-school/headstart, kindergarten to 8th grade middle school, a high school, and NTC. Also located in Crownpoint is a community school run by the BIA. The Navajo Nation Police Department serving the Eastern Navajo is based in Crownpoint. The Crownpoint Indian Health Care Facility, a hospital run by Indian Health Services of the U.S. Department of Health and Human Services is located in Crownpoint. It is where most Chapter people go for medical services.⁴

NTC is located in Crownpoint. The College is a non-profit vocational technical educational institution of the Navajo Nation government, and is considered part of the Navajo Nation for purposes of the Navajo Sovereign Immunity Act, 1 NNC§551 et seq. The College provides its educational and vocational training services at a modest cost to Native Americans in this depressed economic area. By operating native-language programming from a

¹ American FactFinder United States Census Bureau.

² Chapter Images: 2004 Edition. LSR Innovations, Division of Community Development, The Navajo Nation, Window Rock, Navajo Nation (AZ) (based on 2000 census data)

³ American FactFinder United States Census Bureau.

⁴ Chapter Images, p. 427.

radio station in Crownpoint, NTC hopes to reach out to remote and isolated populations, some of whom speak little, if any, English.

The history of Crownpoint goes back to the first inhabitants when the Anasazi lived in the local area. It was here they farmed and hunted as well as engaged in social activities. In more contemporary times, the first Superintendent of the Eastern Navajo Agency established a new governing agency and the new Pueblo Bonito Boarding School in 1910. Later a trading post, a church, and other residential housing were built. Through this time, the Dine maintained their culture and heritage, including continuing their cultural native practices, which still plays an important and powerful role in Navajo day-to-day life.

NTC is eligible for a Tribal Priority at Crownpoint. Based on the College's qualifications as a Native American applicant, and the recent Tribal Priority adopted by the Commission, the College meets the eligibility criteria for a Tribal Priority: 1) NTC is a fully chartered organization owned and controlled by the Navajo Nation and its main campus lies within the principal community border of the proposed facility; 2) over 50 percent of the area within the proposed principle community contour is over Navajo tribal lands; 3) The proposed community of license, Crownpoint, is located on Navajo Tribal lands; and 4) The proposed service constitutes the first local Tribal-owned transmission service at the proposed community of license.⁵

The instant request to amend the FM Table of Allotments and grant a Tribal Priority to NTC would further the Commission's allotment priorities particularly, its priority to increase broadcast capacities on tribal lands, and result in a preferential arrangement of allotments under Section 307(b) of the Communications Act of 1934, amended, by bringing first local Tribal-owned transmission service to the community of Crownpoint, New Mexico. As demonstrated in the attached Technical Statement (Exhibit 1), the proposed Class A facility F(50,50) 70 dBu contour would include 4,447 persons. An estimated 24,750 people may be capable of receiving the signal based upon the terrain and Longley-Rice signal strength

⁵ *Policies to Promote Rural Radio Service and to Streamline Allotment Assignment Procedures*, Third Report and Order, 26 FCC Rcd 17642 (2011), at ¶ 8.

predictions. Further, no community will lose any present or proposed service as a result of this grant.

Conclusion

In view of the foregoing, NTC respectfully requests that the Commission adopt the proposed new tribal allocation at Crownpoint, New Mexico. This rulemaking will serve the public interest and further the Commission's tribal allotment priorities.

Respectfully submitted,

NAVAJO TECHNICAL COLLEGE

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Its Counsel

Dated: August 28, 2012

Exhibit 1

Technical Statement

Submitted by

Greg Best Consulting, Inc.

COMPREHENSIVE TECHNICAL EXHIBIT

This document provides technical information demonstrating that the Navajo Technical College (NTC) proposed facility meets the Federal Communications Commission (FCC) rules for tribal priority preference and that the proposed facility meets all FCC rule requirements. A Petition for Rule-Making for an FM allotment for channel 297A at the coordinates proposed in this application is being simultaneously filed.

The community of Crownpoint, NM has very limited radio reception. Presently, there are no locally owned radio stations within the community of license indicated as Crownpoint, NM according to the search of the FCC database.

An analysis has been executed to determine if a Class A facility can be established at the proposed allotment coordinates of 35-41-07.4N, 108-08-43.2W while meeting the FCC rules with regard to distance spacing to other authorizations.

Attached are several exhibits demonstrating that the proposed facility allotment is in compliance with FCC rules and Docket 09-52 which describes criteria necessary for obtaining a tribal priority.

SEPARATION FROM INTERNATIONAL BORDERS

The proposed location for channel 297A is 425 km from the Mexican border and thus needs no coordination with Mexico.

CHANNEL 297A ALLOTMENT SPACING ANALYSIS

It is proposed to use channel 297A. Using the Class A facility maximum power of 6 kW at the maximum height allowed, all spacing requirements identified in FCC Rule 73.207 have been met assuming channel 297 is chosen for the allotment at the above location. A search of all authorizations within the distance between the reference coordinates and the distance to a Class C facility yielded the Table of Stations and distances shown on the next page. Indicated on the Table are the call sign, station authorization or application, channel and class of the station, the actual distance of the authorization to the reference coordinates, and the minimum distance spacing required by FCC Rule 73.207. From this table, it can be clearly seen that all authorizations are adequately spaced for the proposed channel of operation of 297. In addition, there are no other authorizations where the proposed facility would be short-spaced, nor are there any grandfathered authorizations that could also possibly cause a short-spaced situation.

COMMUNITY OF LICENSE CONTOUR

FCC Rule 73.315 requires the proposed facility 70 dBu F(50,50) contour to contain the community of license. As can be seen by the map labeled "Community of License Coverage Map" on the page following Table 1, the 70 dBu contour of the proposed facility does entirely envelope the community of Crownpoint, NM. The population contained within the 70 dBu contour is 4,447 people as calculated by the V-Soft Probe software using the 2000 census base population.

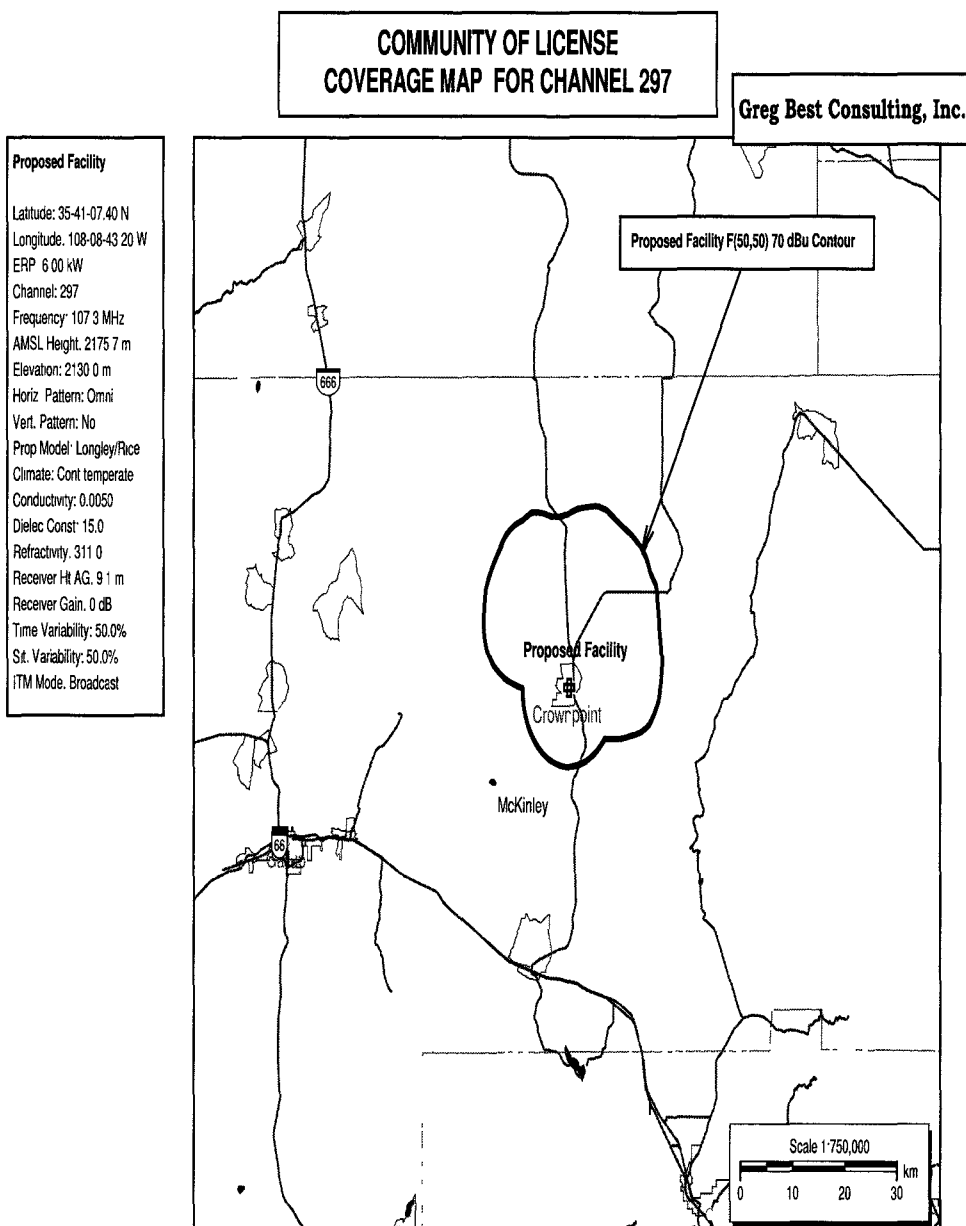
Table 1

<i>CALLSIGN</i>	<i>AUTHORIZATION</i>	<i>STATION CHANNEL & CLASS</i>	<i>CITY & STATE</i>	<i>DISTANCE TO ALLOTMENT</i>	<i>FCC 73.207 MINIMUM DISTANCE</i>
KNKI.C	BPH20100301ABP	294 C0	Pinetop, AZ	206.3	86
KNKI	BLH20100426AAU	294 C1	Pinetop, AZ	206.3	75
KDLW	BLH20061218ABW	294 C0	Los Alamos, NM	146.8	86
KLJH	BLH 20050919ABQ	296 C	Bayfield, CO	188.8	165
KNKT	BLH19880422KC	296 C2	Armijo, NM	136.3	106
KFXR-FM	BLH19950908KE	297 C2	Chinle, AZ	169.0	166
KQBA	BLH20000410ABB	298 C1	Los Alamos, NM	196.3	133
KABR	BLED20120402AUZ	298 C3	Alamo Community, NM	152.5	89
KPRT-FM	BLH20111128FSZ	300 A	Kirtland, NM	112.3	31
KBQI	BLH19790416AD	300 C	Albuquerque, NM	162.7	95

As can be seen from Table 1, the minimum distance criteria is easily met for this proposed allotment.

August 27, 2012

COMMUNITY OF LICENSE EXHIBIT

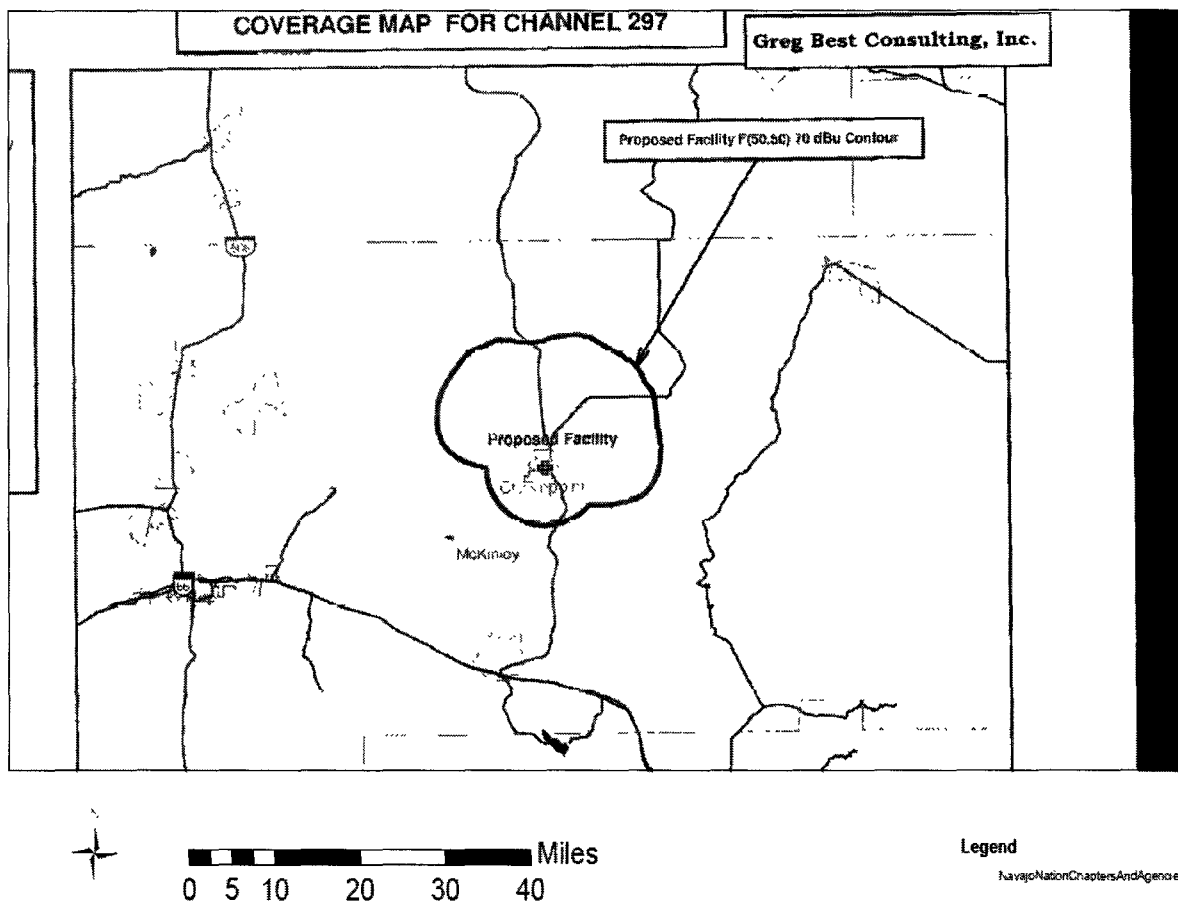


The following exhibit demonstrates compliance with the FCC requirement pursuant to MB Docket 09-52 for a Tribal Priority, specifically, that at least 50% of the proposed allotment facility contour area lands are on Navajo Tribal Lands.

Also, as can be seen in the exhibit, the community of license, Crownpoint, NM is located on Navajo Nation tribal lands.

Since the proposed facility will be the first local tribal-owned commercial transmission service at the proposed community of license, all requirements identified in FCC MB Docket 09-52 for the allocation of the proposed channel have been met.

COL Exhibit for NTC Crownpoint with Navajo Nation Eastern Agency




ADDITIONAL TECHNICAL OBSERVATIONS

Through the use of a Longley-Rice signal strength prediction and a standard FM receiving antenna, it is estimated that roughly 24,750 people will be able to receive the signal from the proposed facility created by the first tribal-owned commercial service in Crownpoint, NM.

CERTIFICATION

I hereby certify that the foregoing report or statement was prepared by me but may include work performed by others under my supervision or direction. The statements of fact contained herein are believed to be true and correct based on my personal knowledge, information and belief unless otherwise stated; with respect to facts not known of my own personal knowledge, I believe them to be true and correct based on their origin from sources known to me to be generally reliable and accurate. I have prepared this document with due care and in accordance with applicable standards of professional practice.

Respectfully submitted,

A handwritten signature in black ink, reading "Gregory L. Best, PE". The signature is written in a cursive style with a horizontal line through the middle of the name.

President

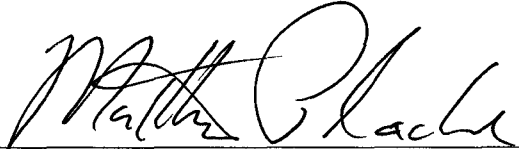
CERTIFICATE OF SERVICE

I, Matthew J. Plache, a partner in the law firm of Catalano & Plache, PLLC, hereby certify that on this 28th day of August, 2012, I caused a true and complete copy of the foregoing "Petition for Rulemaking" to be served on the following persons:

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Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Peter Doyle
Chief, Audio Division
Media Bureau
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Matthew J. Plache